

Summary for December 18, 2018 Briefing on Changes between 2016 and 2018 Rule Amendment Proposals for the Remediation Standard Amendment Effort

Briefing began at 2:00, Tuesday, December 18, 2018 in the First Floor Public Hearing Room, 401 East State Street, Trenton, New Jersey 08625. Teruo Sugihara, Rule Manager, led the briefing. Attendees are attached as Appendix 1.

The purpose of the briefing was to update the external stakeholders regarding changes made by the Department to the 2016 rule amendment proposal in developing the 2018 rule amendment proposal. Additionally, the Department was bringing to a close the external stakeholder process that started in March 2014 and ended 13 meetings later in June 2015.

The 2018 rule amendment proposal is currently undergoing review by the Division of Law and the Office of Legal Affairs. After the legal review, the rule amendment proposal will undergo review by the Governor's Office and then review by the Office of Administrative Law prior to publishing the rule amendment proposal in the New Jersey Register. The target date for publishing the rule amendment proposal is March 2019.

The briefing document (previously circulated) was reviewed. Beyond minor editorial and clarifying text changes, the 2018 rule amendment proposal text is essentially the same as the 2016 rule amendment proposal that was the focus of the earlier external stakeholder meetings. The primary changes were due to updates to the numerical standards being proposed. These were identified in the briefing document as follows:

1. Changes in toxicity factors that were used in the 2016 rule amendment proposal. The 2016 values were based on information available prior to November 2014. This changed the soil remediation standards for 11 contaminants and employed the best available scientific information.
2. Changes in the physical and chemical factors or dermal factors that were used in the 2016 Proposal. The 2016 rule amendment proposal values were based on information available prior to November 2014. Use of the latest information as well as consistency with the USEPA were the goals. This changed the soil remediation standards for 3 contaminants.
3. Newly promulgated ground water quality standards or changes to the existing ground water quality standards. This changed the soil remediation standards for 4 contaminants.
4. Addition of a new rule appendix that illustrates how the Department equations used to derive soil remediation standards are equivalent to their USEPA equations counterparts.

The briefing document also presented information on the direction and magnitude of the changes for the proposed standards for each of the major pathways and for each of the residential and

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non-residential land uses or options. The trends observed in this part of the briefing document were described.

Finally, the briefing document also detailed on a contaminant specific basis the changes that occurred to a given contaminant. Information was provided on the changes between the 2016 and 2018 rule amendment proposals on a pathway basis as well as how the various updates impacted the calculation of a given contaminant and its various standards.

The audience was apprised that external stakeholder meeting information has been (and will continue to be) made available by the Department at:

<https://www.nj.gov/dep/srp/srra/stakeholder/index.html>

Questions:

1. Why do the polycyclic aromatic hydrocarbon values in the September 18, 2017 Notice of Administrative Change to the Remediation Standards differ from the 2016 and 2018 rule amendment proposals?

Those changes were due to Integrated Risk Information System updates to the 2008 Remediation Standards and reflected in part the use of older exposure assumptions not used in the 2018 rule amendment proposal. The 2017 values were not discussed in this briefing because they represent an interim step and do not impact neither the 2016 or 2018 rule amendment proposals that were the focus of the briefing.

2. Will the September 18, 2017 Notice of Administrative Change to the Remediation Standards be discussed in the 2018 rule amendment proposal?

Yes.

3. Will the 2018 rule amendment proposal present the standards as 2 significant figures?

Yes as did the 2016 rule amendment proposal.

4. Were different exposure factors used in the 2018 equations?

The exposure factors used in the 2016 equations reflected a February 2014 USEPA update. These were also used in generating the 2018 standards. However, 2-Chloronaphthalene was an exception as it employed a newer adherence factor in developing the 2018 standard.

5. Were additional chemicals considered to be proposed as standards?

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The main approach was to focus on those compounds that comprise the core of the remedial investigations and are typical of the analytical suites employed, specifically CLP, etc.

6. Will the vapor intrusion pathway values remain as screening levels?

No. The Department desires to convert vapor intrusion screening levels into regulatory standards which are enforceable. This was a central theme in the 2016 rule amendment proposal.

7. Is there a single list of the proposed 2018 standards available?

A single list is not at this time. Such a list would be contained in the proposal that will be advertised in the New Jersey Register. However, the list that was previously circulated after the June 2015 external stakeholder meeting in combination with the briefing document circulated for this briefing would be its equivalent.

8. Is the migration to ground water guidance going to be compiled into one document?

Yes, but the development of technical guidance is a separate process and is not necessarily on the same timeline. However, as this compilation would include alternative remediation standard information, the Department goal is to have that portion ready for release and available prior to the 2018 rule amendment proposal formal comment period. Similarly, the Department will endeavor to have ready and available the alternative remediation standard guidance for the other pathways as well in that same time frame.

9. Will there be a 6-month phase in process?

Yes, the Department plans to use the phase in approach that is typical in these situations.

10. How will compliance with the 6-month phase in be demonstrated?

As usual, an “approved” remedial action work plan will be the key to determining compliance.

11. Will an ethylbenzene standard be proposed?

Yes, it will be the same value that was proposed in the 2016 rule amendment proposal.

12. When will the 2018 rule amendment proposal be proposed in the New Jersey Register?

March 2019 is the current target date.

Briefing ended at 2:37 pm, Tuesday, December 18, 2018

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Appendix 1

External Stakeholder Attendees:

Carrie McGowan
Caryn Barnes
Sam Jones
Kevin Long
Maria Kouris
Neil Rivers
Niall Henshaw
Rayna Laiosa
Rodger Ferguson
Scott Drew
Theodoros Toskos

NJDEP Attendees:

Teruo Sugihara
Barry Frasco
Judith Andrejko
Kathleen Kunze
Swati Toppin
John Ruhl
Allan Motter
Paul Sanders
Erica Snyder
Ray Papperman
Sana Qureshi
Anne Hayton
Mark Pedersen
David Haymes